BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIF

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Order Instituting Investigation to Consider Policies to Achieve the Commission's Conservation Objectives for Class A Water Utilities.	Investigation 07-01-022 (Filed January 11, 2007)
In the Matter of the Application of Golden State Water Company (U 133 E) for Authority to Implement Changes in Ratesetting Mechanisms and Reallocation of Rates.	Application 06-09-006 (Filed September 6, 2006)
Application of California Water Service Company (U 60 W), a California Corporation, requesting an order from the California Public Utilities Commission Authorizing Applicant to Establish a Water Revenue Balancing Account, a Conservation Memorandum Account, and Implement Increasing Block Rates.	Application 06-10-026 (Filed October 23, 2006)
Application of Park Water Company (U 314 W) for Authority to Implement a Water Revenue Adjustment Mechanism, Increasing Block Rate Design and a Conservation Memorandum Account.	Application 06-11-009 (Filed November 20, 2006)
Application of Suburban Water Systems (U 339 W) for Authorization to Implement a Low Income Assistance Program, an Increasing Block Rate Design, and a Water Revenue Adjustment Mechanism.	Application 06-11-010 (Filed November 22, 2006)
Application of San Jose Water Company (U 168 W) for an Order Approving its Proposal to Implement the Objectives of the Water Action Plan.	Application 07-03-019 (Filed March 19, 2007)

REPLY BRIEF OF PARK WATER COMPANY ON ISSUES IN PHASE 1A

LEIGH K. JORDAN,
Executive Vice President
Park Water Company
9750 Washburn Road
Downey, CA 90241
Phone: (562) 923-0711
Fax: (562) 861-5902
leigh@parkwater.com

September 17, 2007

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REPLY BRIEF OF PARK WATER COMPANY ON ISSUES IN PHASE 1A

I. INTRODUCTION

Pursuant to Rule 13.1 of the Commission's Rules of Practice and Procedure (Rules) and the Phase 1A briefing schedule established by Administrative Law Judge Grau's ruling dated August 3, 2007, Park Water Company ("Park") submits this brief in reply to the Opening Brief of the Consumer Federation of California ("CFC") and the Opening Brief of the Utility Reform Network, the National Consumer Law Center, the Disability Rights Advocates, and the Latino Issues Forum (referred to collectively as "Joint Consumers") filed on August 27, 2007 in this proceeding.

As stated in Park's Opening Brief, Park has filed settlements with at least one other party to this proceeding which contains agreements on every issue. On June 15, 2007, Park and the Division of Ratepayer Advocates ("DRA") filed a proposed

Settlement Agreement on WRAM and Conservation Rate Design Issues. On July 30, 2007, Park and DRA filed a proposed Settlement Agreement on a Conservation Memorandum Account. On August 10, 2007, Park, the National Consumer Law Center, the Consumer Federation of California, the Latino Issues Forum and the Utility Reform Network filed a proposed Settlement Agreement on the Issue of Data Collection, Monitoring and Reporting. In this brief the reference to the Settlement refers specifically to the June 15, 2007 Park and DRA Settlement Agreement on WRAM and Rate Design.

II. RATE DESIGN

In the introduction to its opening brief CFC asks the Commission to take a number of actions, most of which relate to rate design issues. To various degrees, Park considers all of the requested actions relating to rate design to be unnecessary or ill-advised. These actions are discussed below:

A. Should the Commission Direct Each Utility to Immediately Begin Gathering Data Needed to Design Conservation Rates for Commercial and Industrial Customers, including Historical Usage for Each Customer.

Since the Settlement is proposing conservation rates for commercial and industrial customers, Park concludes that CFC's reference is to tiered rates. Park takes issue with CFC's continued refusal to accept that anything other than tiered rates can be designated "conservation rates". CFC's opinion is not shared by the California Urban Water Conservation Council ("CUWCC"), the statewide organization created to increase the efficiency of water use in California. The Commission's Water Action Plan ("WAP") (page 8) directs utilities to participate with the CUWCC and implement the CUWCC's Best Management Practices ("BMP"). As defined by CUWCC BMP 11, the rates proposed by the Park/DRA Settlement are conservation rates. BMP 11 states that a rate structure is conservation orientated if more than 70% of revenue (excluding revenues from fees, fire protection service and temporary service) comes from the quantity charge. The settlement rate design is set such that 75% of revenue (excluding revenues from fees, fire protection service and temporary

service) comes from the quantity charge and therefore meets the stated criteria for a conservation rate as defined by the CUWCC. (Settlement, section 5.3, page 4; TR 146, 21-147, 3). According to the CUWCC, any rate design in which that percentage exceeds 70% is a conservation-oriented rate structure. Park submits that the CUWCC is a more authoritative source for what is or is not "conservation rates" than CFC.

With regard to the development of tiered rates for non-residential customers, Park stated in testimony submitted with its application that Park plans to evaluate separate increasing block rate design for the non-residential customer classes in its next GRC (Exhibit 9, page 12). Mr. Jackson stated at hearings that it remains Park's intention to address tiered rates for non-residential customers in its next GRC (TR 183, 12-17).

CFC's Opening Brief (page 7) incorrectly asserts that Park has not considered increasing block rates for non-residential customer classes. The reason that Park did not proposed increasing block tiered rate design for the non-residential customer classes is that those classes are not homogeneous, either in nature and amount of usage, and there was insufficient information to develop the multiple rate designs that would be required in order to encourage conservation but not be punitive (Exh.9, page 11) (TR 170, 11 - 171,15). From this request, it appears that CFC now agrees that more data is required.

B. <u>Should the Commission Direct Each Utility to Develop a Careful Analysis of Forward-looking Costs of Supplying Water to its Customer Base so that in its Next GRC, Prices Assigned to the Second and Third Tiers of Increasing Block Rates Can be Calibrated with Costs</u>.

Park is not absolutely opposed to the idea of looking at forward-looking marginal costs of supply, even marginal costs that would include the theoretical cost of additional facilities. However, the development of such forward-looking, or long-term, marginal costs is a complex exercise that is full of assumptions. The exercise presents a number of questions: how long-term is the look; at what point do we assume the source of last resort; is desalination the source of last resort; what degree of conservatism should be used in assumptions of growth, conservation, and other

factors. Park is not aware of any standard methodology with which such a determination should be made. Park believes that it would be inappropriate and wasteful for water utilities to embark on such an effort without more direction from the Commission as to how to proceed.

Park questions the ultimate usefulness of a substantial effort in this area in relation to rate design. CFC's request appears to be based on its position (page 23-24) that, in a rational rate design, Tier 2 rates would be set to reflect current marginal cost and Tier 3 rates set to reflect future marginal cost. Under this scenario, the future marginal costs are necessary to develop a rate design. Other parties to this proceeding do not agree that CFC's rate design is the only rational one. Further, the setting of Tier 3 rates to reflect long-term marginal cost may be impractical; if the long-term marginal cost is very high, the resultant Tier 3 rate may require setting unreasonably low rates for the other tiers or unreasonably low service charges so as to avoid over-collecting the adopted revenue requirement.

In addition, it must be remembered that there is a cost to performing these studies. The Commission must consider the reasonableness of requiring studies, data collection, etc, which can result in significant additional expense, especially when spread over a relatively small customer base, in relation to the level of benefit that will be derived.

C. <u>Should the Commission Postpone implementation of Conservation Rates</u>

CFC proposes that the implementation of conservation rates be postponed until after: 1) the completion of cost allocation studies; 2) the development of "conservation rates for all customer classes with the potential to reduce usage"; and 3) the development of "cost information which appropriately aligns increasing block rates with the utility's costs".

1) <u>Cost Allocation Studies</u>: CFC's request implies that the implementation of conservation rates will change the cost allocation or somehow render the existing allocation inappropriate. The designing of rates does not, in and of itself, necessarily result in a change of allocation. The Settlement rate design maintains the allocation between customer classes adopted by the Commission for Park for

the Test Year 2007 (TR 150, 16-24). The only explanation provided by CFC as to how the implementation of conservation rates will invalidate the existing cost allocation is based on the assumption that residential customers will conserve in response to tiered rates and non-residential customers will not (CFC Brief, page 26), an assumption that is made with no support. In fact, due to the absence of a lower Tier 1 rate in the non-residential rate design, there is a greater incentive for non-residential customers with average usage to conserve than for residential customers with average usage. While cost allocation studies are something for the Commission to consider in future GRCs, it is not a reason to postpone the implementation of conservation rates.

2) Rates with Potential to Reduce Usage: CFC's requirement for conservation rates with the potential to reduce usage is already met by the Settlement rate design, at least according to the CUWCC (see above and later in this section). It is only CFC's opinion that the conservation rates in the Settlement do not have the potential to reduce usage.

3) Aligning Rates with Cost: CFC's requirement of "cost information which appropriately aligns increasing block rates with the utility's costs" be developed is unnecessary because the rate design in the Settlement is aligned with Park's costs. CFC (page 22-23) maintains that rates must be based on costs and (page 23) complains that the only references to costs by utilities were statements that the rates were designed to be "revenue neutral". What that means is that the rates were designed to generate Park's adopted revenue requirement, a total of all the costs found to be reasonable by the Commission. The settlement rates are based on Park's adopted costs. Further, the Settlement tiered rates for residential customers are aligned, in a broad sense, with marginal cost (TR 358, 10-18; TR 396, 21-27).

In support of its position CFC refers (footnote 16, page 23) to a statement made in D. 05-12-020 on a GRC for Apple Valley Ranchos Water Company regarding a cost study for gravity irrigation customers. The issue involved in that case was whether rates for a separate, non-potable, gravity irrigation system, with only one customer,

should be based on cost-of-service or set to avoid bypass. The cost study was a cost-of-service study (revenue requirement determination) for the irrigation system, not a marginal cost study, which resulted in service charge/single block rate structure (D.05-12-020, page 38-41; Appendix B, page 2). That case has no bearing on the issues in this proceeding.

The Settlement is a Trial Program, proposed with the intent that the conservation rate design can, and probably will, be modified in future GRCs. The proposed rate design represents transitional rates. Park has provided testimony (Exh. 9, page 12) that it may take several rate proceedings to fully transition from the current single uniform rate structure to an increasing block rate structure that provides all customers with the appropriate price signals. After experienced is gained with the customer response to conservation rates, Park will be able to improve the accuracy and efficiency of the increasing block rate design. The proposed rate design is the initial step in a long-term process of implementing the appropriate conservation rates.

CFC has consistently opposed this concept, stating a preference that conservation rates be developed in a more or less final form, after collection and consideration of all data and possible variation on methodologies to determine conservation rates, before any conservation rates are implemented (TR 562). CFC has provided numerous examples in comments, testimony and brief, of different types of conservation rates used by municipal or district providers and different methods for determining rates and limits for blocks. Park does not disagree that consideration of these methods and rate designs is useful in the process of developing the ultimate look of Park's conservation rates. However, the real issue here is whether the Commission should: 1) begin now, implementing conservation rates that can be implemented with the data we currently have, and keeping the rate structures relatively simple and non-extreme so as to avoid the potential for harm to ratepayers; or 2) do nothing until we arrive at the perfect conservation rate design. Given the water situation in California, Park believes that the former course is the most appropriate.

CFC, in pointing to a relatively small number of municipal providers, admittedly not intended as a representative sample (TR 529, 5 – 530,1), as examples of the

conservation rates that should be implemented for Park, ignores the fact that these providers have evolved their conservation rate structures over time (TR 530, 8-25). In fact, Los Angeles Department of Water and Power, began its conservation rate structure with a two tier rate design applicable only to residential customers just as is proposed in the Settlement (TR 243-244; Exh. 13). The Settlement is following the process used by the other providers which have developed conservation rates. While CFC claims that it would be more effective for Park to start off at a point at which other providers have taken years to arrive, Park believes that conservation rates will be more acceptable to customers if they are "eased into". CFC asserts that modifying the Settlement rates in future GRCs will confuse customers and result in duplicative communication costs (Exh. 19, page 7, line 19-page 8, line 2). Mr. Jackson, Park's Director of Revenue Requirements, who has substantial experience communicating with Park's customers (Ex. 9, page 2) whereas CFC has none, disagrees with this assertion (TR 239,2-240,3).

D. <u>Should the Commission Require that First Tier of Increasing Block Rates be set at a Level Adequate for Essential Needs , and is that Level 10 Ccf</u>

CFC requests that the Commission require that the first tier of any increasing block rate, or budget rate, be set at a level which allows an adequate supply of water for essential indoor needs. Park does not disagree with that general concept. CFC goes on to state that all parties agree in this case that that level is 10 Ccf. This statement is incorrect; some parties disagree with that amount and Park disagrees with the methodology used by CFC and its "one size fits all" approach.

Park has proposed in its application and the Settlement, that the top of the first tier in its increasing block rates for residential customers be set at 10 Ccf. The settlement arrives at the 10 Ccf level using the midpoint between the median and average winter consumption as a proxy for indoor use (Settlement, Section 4.3.a, page 3). CFC arrives at its 10 Ccf level using generic formulas based on a family of four (Exh. 19, page 10). These formulas do not take into account demographic and geographic factors which effect the indoor water needs in various companies. The

methodology in the Settlement does. The commission should not adopt a "one size fits all" approach to setting the first tier in tiered rates.

E. Should the Commission Require Studies of Customer Usage Patterns to Allow for the Development of Seasonal Rates

The rates in the Settlement incorporate seasonality of water use by using seasonal averages to establish break points and the amount of seasonal variation in Park's sales is so small as to make seasonal rates unnecessary (Motion of to Approve Settlement, Section F, page 10). Because the first tier is set using the winter average, customers will receive a stronger price signal to conserve in the summer (TR 15-19).

CFC's request seems to presume that it is appropriate for all water utilities to establish seasonal rates. Park does not agree that this is the case. In addition, as with the marginal cost studies (see discussion under No. 2 above) the Commission must weigh the costs of these studies and the increased cost of preparing and administering seasonal rate schedules, which would be ongoing, against the benefits.

F. If the Commission Decides to Implement Conservation Rates Now, Should it Implement the Settlement or the Rates in Park's Application

The Opening Brief of CFC (page 2,3, 16) argues that the rate design proposed by the Settlement is unreasonable and recommends that the Commission not adopt it. As a fall-back to its position that the implementation of conservation rates should be postponed for an unspecified period of time, CFC proposes that the Commission adopt the rate design in Park's application. The rate design proposal in the Settlement is preferable for several reasons and should be adopted by the Commission.

1. The Rates Proposed by the Park/DRA Settlement are Effective

Perhaps the major issue that CFC has taken with the rate design in the Settlement is the assertion that it will be ineffective (Opening Brief, page 16). Park maintains that it will be effective and, in some area will be more effective than Park's application rate design.

a. Non-Residential Conservation Rates

As previously stated, despite CFC's opinion, the non-residential rates proposed in the Park/DRA Settlement are "conservation rates". The settlement rate design includes a reduction in service charges by approximately 18% and an increase to the single block commodity rate of about 8% with the result that 75% of revenue comes from the quantity charge and therefore exceeds the stated criteria for a conservation rate, 70%, as defined by the CUWCC. (Settlement, Section 4.1, page 3). The non-residential rate design in Park's application did not include any reduction to the service charges or increase to the commodity rate for non-residential customers (Exh. 9, pages 11-12). Adoption of the application rate design will not send any price signal to non-residential customers and will clearly be less effective in promoting conservation.

b. Residential Rates

CFC's Opening Brief (page 15) is critical of the 10% price differential between Tier 1 and Tier 2 rates proposed by the Settlement. CFC believes that a 10% price differential is too low, preferring instead the 20% price differential originally proposed in Park's application. CFC's analysis is incomplete because it focuses entirely on the differential and fails to consider the impact of the magnitude of the rates themselves. Customers are motivated by the actual rates, not just the price differential between rates. If the Tier 2 rate is effectively priced, customers will be motivated to avoid usage in Tier 2. The pricing of the Tier 2 rate at an appropriate level will provide a price signal to customers to conserve water irrespective of the price differential between the tiers.

Because the proposed rate design in the Settlement reduced the service charges, the resulting commodity rates for Tiers 1 and 2 are higher than those in the application (Motion to Adopt Settlement, Section 1, page 7). The rates in the application were Tier 1 (0-10 Ccf): $2.26, Tier 2 (11-38 Ccf): $2.71, Tier 3 (>38 Ccf): $3.26 (Exh. 9, page 15). The rates in the Settlement are Tier 1 (0-10 Ccf): $2.53, Tier 2 (>11 Ccf): $2.78 (Settlement, Attachment 1, page 1). Therefore, even though the price differential in the Settlement is less, the rates in Tier 1 and Tier 2 are

higher and stronger price signals are being sent for all but the small amount of consumption represented by customers using over 38 Ccf per month, double the average summer use (Exh. 9, page 14). Contrary to CFC's assertion in its argument on WRAM (page 29), the Settlement tiered rate design increases commodity rates for all residential customers above the current rate of $2.42/Ccf (see discussion in Section III, B. below), while, in the application rate design the Tier 1 rate was reduced to $2.26/Ccf. Park believes that the settlement rates for residential customers will be effective.

CFC was also critical of the Settlement's elimination of the Tier 3 in the application tiered rate design. A portion of Park's rationale for agreeing to the elimination of the Tier 3 was due to the magnitude of the Tier 2 rate; that it would be effective without a third tier and due to a concern about customer impact (discussed below) (TR 245,25-246,2). Park compared the Tier 2 rate proposed by the Settlement with the rates of the municipal utilities in Southern California recommended by CFC, all of which have 3 or more tiers (Exh. 19, Attachment C – Comments on DRA/Park Settlement, page 11). Park's analysis found that the proposed Tier 2 rate is in fact higher the highest tier of the majority of the municipal conservation rates cited by CFC.

For the above reasons the conservation rates in the Settlement, residential and non-residential are likely to be more effective overall than those in Park's application and are preferable on that basis alone.

2. <u>The Rates Proposed by the Park/DRA Settlement are Reasonable and Balanced</u>

The proposed rate design constitutes a Trial Program to be reviewed in Park's next GRC. (Settlement, Section 3, page 2). The proposed rates will effectively transition rates from a single commodity rate to increasing block rates without providing rate shock to Park's customers. Park provided testimony that a primary concern in developing increasing block rates is equity and fairness to its customers and the avoidance of rate shock. (TR 177, 24-26). The proposed rate design is fair and equitable while promoting conservation. The proposed rate design will encourage

conservation while not penalizing customers for use that is inelastic (Motion to Approve Settlement, Section C, pages 6- 7).

The WAP (page 8) sets the objective to set rates which encourage conservation. The proposed rate design meets the WAP objective by providing customers with a financial incentive to conserve water (TR 241). As discussed above: the Settlement rate design is consistent with CUWCC BMP 11 and is a conservation rate design; and it will effectively encourage conservation. Because the first tier of usage is set at winter usage levels, the proposed rate design provides a financial incentive for customers to decrease water usage during the summer when supplies are constrained. (Motion to Approve Settlement, Section C, page 6).

By setting the tiers at appropriate levels, the proposed rate design has considered the impact on low-income customers as directed by the Commission (Scoping Memo, page 3). The rate design proposal addresses low income affordability by setting the first tier using a proxy of indoor water use and by ensuring that larger households do not enter the higher tier too soon and by eliminating Park's originally proposed Tier 3. (Motion to Adopt Settlement, Section B, page 5).

CFC is the sole opposition to the Park/DRA Settlement. All parties in this proceeding, with the exception of CFC, are unopposed to the rate design proposed by the Park/DRA Settlement. These parties include the City of Norwalk, who in its petition for intervener status, stated its concern over the impact of the proposed rate design on the residents of Norwalk. Approximately 1/3 of all Park's customers reside within the city limits of Norwalk. The fact that the City of Norwalk participated in this proceeding and is unopposed to the Park/DRA Settlement should provide the Commission with additional assurance of the reasonableness of the proposed rate design.

For all of the above reasons, the conservation rate design proposed by the Park/DRA Settlement is reasonable. The Commission should adopt and implement the rates proposed by the Settlement.

III. WRAM

CFC, in the introduction to its Opening Brief, requests that the Commission allow utilities to implement a "Monterey-style" WRAM if it demonstrates that it "has an incentive to promote water sales". Park is not certain whether the use of the word "incentive" is a typographic error, or whether CFC is simply not addressing the situation in which a company has a disincentive to promote conservation in this section. Park will address the points brought up by CFC in Section V of its brief.

A. CFC's "Experimental" Rate Design Requirement Has No Basis In Commission Policy

As in its Comments on the Settlement (page 2), CFC cites D. 96-12-005, a GRC decision for California American Water Company (the Cal-Am-Monterey case) to support its contention in its opening brief that the Commission has a requirement that a utility implement an "experimental" rate design in order to be authorized a WRAM. As shown in Park's Reply Comments on the Settlement (page 3), CFC's contention is incorrect. The Commission did not set such a requirement in D.96-12-005 or anywhere else. In D.06-08-015 (A.06-01-004) dated August 24, 2006, the Commission ordered Park to file an application for a WRAM within 90 days stating (pages 10-11): "The Commission is committed to addressing the Water Action Plan's objectives on a timely basis." In its Water Action Plan ("WAP") (page 9), the Commission discussed the basis for the establishment of WRAM mechanism and there is no mention of a requirement for an experimental rate design. In its discussion of financial disincentives to water conservation the Commission states:

> "Because water utilities recover their costs through sales there is a disincentive associated with demand side management: a successful campaign to reduce water use leads to less revenue and less profit. The Commission will consider de-coupling water utility sales from earnings in order to eliminate current disincentives associated with conservation." (Emphasis added.)

The WRAM mechanism proposed in the Settlement would decouple water sales from revenues and therefore eliminate the disincentives for further implementation of conservation programs.

In support of its contention, CFC states that D. 96-12-005 proposed a WRAM "[b]ecause the experimental rate design would increase the variability of Cal-Am's revenues". The rate design proposed in the Settlement, while it may not be "experimental" in CFC's opinion based on comparisons with rate designs used by a number of municipal providers, is an experimental rate design for Park. The combination of tiered rates for residential customers and reduced service charges that do not generate 50% percent of estimated fixed costs is a rate design that is a radical departure from recent Commission policy, and any rate design previously adopted for Park. Also, it is clear that the transition to such a rate design will increase the variability of Park's revenues. By any reasonable interpretation the language in D. 96-12-005 supports the adoption of a WRAM for Park.

B. A WRAM is Necessary to Remove Park's Disincentive to Promote Conservation

CFC states (page 29), that decoupling is necessary only when there is an incentive to sell more water because selling more water results in more (presumably net) revenues. And that if selling more water means incurring higher costs (presumably costs in excess of the revenue generated), there is no need to decouple. CFC claims that it is not clear that Park needs a WRAM because there is no evidence in this case that the revenue loss associated with reduced sales would exceed the cost savings. D. 06-08-015, the decision on Park's Test Year 2007 GRC, states that Park's water sources are groundwater wells and purchased water from the Central Basin Municipal Water District. Appendix D (page 1) of that decision shows that the adopted cost of purchased water, the most expensive source, is $498/ A.F., or $1.14/Ccf (1A.F. = 435.6Ccf). Appendix B (page 1) of that decision shows that Park's adopted single-tier commodity rate is $2.42/Ccf. Clearly Park's revenue loss exceeds its cost savings for every Ccf of water that is not sold and a WRAM is necessary to remove this disincentive for Park to promote conservation.

CFC goes on to state (page 29) that the specific rates proposed in the settlements are unlikely to cause any measurable changes in consumption patterns and, citing TR188, that only 35% of Park's customers will see increased rates. This statement is incorrect. The proposed Tier 1 commodity rate in the Settlement is $2.53/Ccf and the Tier 2 rate is $2.78/Ccf (Settlement, Attachment 1, page 1) which is an increase to park's existing commodity rate of $2.42/Ccf. Thus 100% of Park's customers would see increased rates and an increased incentive to reduce consumption even in Tier 1. Assuming that CFC means bills rather than rates, CFC misunderstands and misstates Park's testimony. Mr. Jackson, at TR 188, stated that 65% of Park's sales would fall into Tier 1. CFC has apparently combined Mr. Jackson's statement with the fact that, under the proposed rates, individual customers whose bi-monthly usage does not exceed the Tier 1 amount in a given billing period would not experience an increase in their bill, to conclude that only 35% of the customers would experience higher bills. That conclusion cannot be drawn from those two facts; the number of customers who would have a higher bill would depend on the distribution of those sales among the individual customers. In addition, this conclusion specifically contradicts the filed testimony of CFC's witness, Ms. Wodtke, which stated "For example, 57% of Park Water's residential customers will receive a price increase over a single quantity rate, and these customers account for approximately 75% of residential consumption on Park Water's system." (Exh.19, page 17).

CFC's conclusion that only 35% of customers will see increased rates is incorrect and is not supported by CFC's statements or the record. Further, CFC's conclusion that there is unlikely to be any measurable change in customer consumption patterns completely ignores the fact that Park's has joined the California Urban water Conservation Council and is increasing its conservation programs (Exh. 9, pages 9-10).

C. CFC's Claim that the WRAM/MCBA will Reduce Production Cost Efficiency is Un-founded

CFC (page 32) claims that that the combination of the two accounts, WRAM and MCBA, discourages a utility from reducing its purchased power and water costs

because any savings in production costs it achieves will reduce the amount of lost revenues it is able to collect from customers. CFC's concern that Park would not have an incentive to seek to reduce its production costs if the savings are passed to the ratepayers is incorrect. Park would always seek to provide quality, reliable service at the lowest reasonable price because it promotes customer satisfaction and that is good business and helps make the company successful (TR 168, 1-18).

Further, as a part of the Settlement (Section 10.2, page 7), Park stipulates that it will continue to exercise due diligence tin ensuring the least-cost water mix of its water sources. In addition, the Settlement (Section 10.3. page 7) specifically provides for a review procedure in its next GRC.

D. CFC's Claims that the WRAM will Result in Cross-subsidization are Un-Founded

CFC (page 32) expresses concern that the WRAM will facilitate cross-subsidization of one customer class by another and states "The increasing block rate design, however, will be implemented only for residential customers; any savings achieved as a result of their

responsive conservation should inure to their benefit." CFC goes on (footnote 18) to discuss the use of balances in the WRAM/MCBA accounts to fund conservation programs.

Firstly, CFC's arguments are difficult to follow and appear to totally confuse what will occur in the WRAM and MCBA during conservation. If conservation occurs and sales decrease, there will be production cost savings tracked in the MCBA, but the balance tracked in the WRAM will be a shortfall in commodity rate revenues received. For every Ccf of sales reduction, the production cost savings are $1.14 and the revenue shortfall is $2.78 or $2.53, depending on the tier (see above). Therefore, if customers conserve, the revenue loss will exceed the cost savings and the combined balance in the WRAM/MCBA accounts will be an amount to be recovered by the utility through a surcharge. There would be no net savings for residential customers to keep, nor would there be amounts that could be used to fund

conservation programs rather than be refunded to customers as a surcredit. CFC's arguments appear to assume the opposite and do not make sense.

Secondly, CFC's concern is apparently based on the presumption that residential customers, in reaction to a tiered rate design, will conserve while other customers will not, or will only conserve to a much lesser degree. There is nothing on the record to support this presumption. The settlement proposes conservation rates for the non-residential customer classes, with reduced service charges and increased commodity rates. There is no evidence as to how the residential and non-residential customers will react to these two conservation rate designs. One could just as easily assume that residential customers, because they are not businesses and are not driven by the same economic pressures, will feel freer to place a value on convenience and have a greater tendency to simply pay higher bills rather than cut back consumption. In addition, CFC's presumption focuses only on the tiered rates and ignores the fact that Park's increased conservation efforts include programs specifically targeted at non-residential customers (TR 147, 13-16).

E. The WRAM is Not a New Concept and the Decision Rendered by the Commission in the Risk OII Supports the Establishment of a WRAM as Proposed in the Settlement

CFC states (page 28) that "The concept of a water revenue adjustment mechanism first appeared in the water utility context when California-American Water company ("Cal-AM") asked to increase rates in its Monterey District in 1996." This statement is incorrect. In D. 07-08-030 (page 33-34), on Cal-Am's A.06-01-005 wherein Cal-Am requested a WRAM, the Commission noted "DRA also cites the Commission's investigation into measures to mitigate the effects of drought on regulated water utilities, where in D.91-10-042 we adopted a revenue adjustment mechanism…". Also the Commission specifically addressed the concept of a WRAM in D. 94-06-033 issued in connection with its investigation into water company risk (Risk OII).

This statement in CFC's brief that the WRAM concept first appeared in the Cal-Am GRC is strange because CFC addressed the discussion of WRAM in D.94-06-033

in its Comments on the Settlement attempting to argue that D. 94-06-033 provided a basis for rejection of the WRAM proposed in the settlement (CFC's Comments on the Settlement Agreement between DRA and Park Water Company, dated June 27, 2007, attached as Exhibit C to the Testimony of Alexis K. Wodtke).

On page 10 of its Comments CFC argues that the Commission should once again reject a WRAM for water utilities as it did in the Risk OII decision (D. 94-06-033) for the same reasons. CFC's argument would be more persuasive if circumstances were the same now as they were in 1994 when this decision was issued. In 1994, the drought was declared over by the Governor of California and the Commission terminated the conservation memorandum accounts (a mechanism that was essentially a WRAM but that was a memorandum account rather than a balancing account).

The Commission, in its discussion of the lack of need for a WRAM stated (D. 94-06-033, page 41) "But most Class A water companies today are earning at or close to forecasted sales levels, and econometric forecasting (discussed later in this decision) holds the promise of even more accurate predictions since it can include factors like residual conservation." Water utilities are now subject to rate case plan that is significantly different from the rate case plan in effect during the Risk OII proceeding. One of the major differences between the current rate case plan and the rate case plan in effect during the 90's is the Econometric Sales Forecasting model as described in the Risk OII decision (D.94-06-033, page 63). Unlike the current sales forecast methodology, the Econometric method was a more robust model that was capable of accounting for the impacts of price elasticity and conservation. The current rate case plan uses a simpler model to forecast sales, the New Committee Method. The New Committee Method uses only variables for temperature and rainfall and does not take into consideration the impacts of conservation. Absent the establishment of a WRAM mechanism, Park would be at risk for the loss in water sales resulting from water conservation programs and a conservation rate design.

While the Risk OII decision did not adopt a "W-RAM" for water utilities, it did not rule out the possibility of developing a similar mechanism in the future. The decision states (page 10),

> "Although we reject in this decision the water utilities' request to create their own ERAM-type of balancing account (the W-RAM), we will not rule out the possibility of developing some limited form of W-Ram mechanism that ensures that water utilities have the proper incentives to engage in water conservation activities."

The Commission stated in D.94-06-033 (page 41-42) that there was no immediate need for a WRAM stating "Moreover, the anticipated shortage of water supply that drives the ERAM recommendation is speculative to the extent that it assumes that nothing will be done about California's chronic water shortage, that no new sources of water will be developed, and that no political steps will be taken to adjust allocations between urban and agricultural users." We are now at a point, 13 years later, where the water shortage problem has not been solved, the new sources of water have not been developed and political adjustments have not occurred, at least not to the extent necessary to solve the problem. Water companies are now being asked to be a part of the solution to the State's water problem and, because water is energy intensive, a part of the solution to the State's energy problem; and therefore should be authorized a WRAM so they can do so without financial harm.

The language of the Commission in D.94-06-033, applied to the current circumstances, supports the adoption of a WRAM. Ignoring that decision and, in contradiction to its Comments, claiming that the WRAM concept first appeared later in the Cal-Am GRC does not change that.

CFC, in its Comments on the Settlement Agreement between DRA and Park Water Company, makes a number of other arguments against the adoption of a WRAM. As explained in Park's Reply Comments, dated July 6, 2007 (pages 3-10), these arguments are all based on misunderstandings of the WRAM mechanism, misunderstanding of the differences between regulated and non-regulated business, and/or misunderstanding or misinterpretation of Commission decisions.

IV. CUSTOMER EDUCATION AND OUTREACH

In this section of the brief, references are made to the Motion for Adoption of the Settlement Agreement Between Suburban Water Systems and Disability Rights Advocates, National Consumer Law Center, Latino Issues Forum and the Utility

Reform Network dated August 10, 2007 ("Suburban/Joint Consumers Settlement") and the Memorandum of Understanding between Suburban Water Systems and Disability Rights Advocates attached as Appendix B to the Rebuttal Testimony of Robert L. Kelly dated July 20, 2007.

A. No Fundamental Policy Disagreement Exists Between Park and the Joint Consumers

There is no disagreement between Park and the Joint Consumers over the necessity for a robust customer education program. Park agrees with Scoping Memo and the Joint Consumers that a strong customer education program should be implemented coincident with the establishment of conservation rates (Reply Comments of Park Water Company, July 6, 2007, page 5). On page 18 of its opening brief, the Joint Consumers state, "We did not reach a settlement with Park, not because of fundamental policy disagreements, but more as a result of limited resources and logistics." (Emphasis added)

On page 16 of its Opening Brief, the Joint Consumers recommend that the Commission adopt the outreach efforts contained in the Suburban/Joint Consumer Settlement and Suburban/Disabilities Right Advocates Memorandum of Understanding for all utilities. While Park is doing and will agree to do a number of the items in the Suburban Settlement and Memorandum of Understanding, it is not appropriate for the Commission to adopt all of the items contained in these agreements.

B. The Commission has Existing Rules in Place Governing the Content of Customer Notices

Rule No. 3.2 of the Commission's Rules Practice and Procedure requires certain information be provided on customer notices of rate increases. Rule 3.2 states, "The notice shall state the amount of the proposed rate change expressed in both dollar and percentage terms for the entire rate change as well as for each customer classification, a brief statement of the reasons the change is required or sought, and the mailing, and if available, the e-mail, address of the commission to which any customer inquiries

may be directed regarding how to participate in, or receive further notices regarding the date, time, and place of any hearing on the application, and the mailing address of the corporation to which any customer inquiries may be directed." (Emphasis added).

Aspects of the Suburban/Joint Consumer Settlement on conservation rate customer notices are already required by Rule 3.2 and therefore Park's conservation rate customer notice will include this information. The Suburban/ Joint Consumer Settlement (Section 3.1.1, page 3) requires information on why rates are changing, what the impact will be on monthly bill, what the change will be on the average monthly bill and the effective date. The Suburban/Joint Consumer Settlement (Section 3.1.2, page 3) requires a comparison of the current rate structure to the new conservation rate structure.

C. Park Has Agreed to Implement Portions of the Suburban/ Joint Consumer Settlement Applicable to Park

The subject of the Suburban/Joint Consumer Settlement includes both conservation rates and a low-income ratepayer assistance ("LIRA") program. Park's LIRA program is not the subject of this proceeding and therefore Park has not addressed the requirements of the Suburban/Joint Consumer Settlement related to Suburban's LIRA program.

The Suburban/Joint Consumer Settlement (Section 3.1.4, page 3) requires that key information in the conservation rate customer notice be in large type. The Suburban Settlement does not, however, define key information. Park has agreed to make large type notices available upon request. In addition, Park has agreed to include a line on all notices in large types indicating where to call to get them (Exh. 10, page 3).

The Suburban/ Joint Consumer Settlement (Section 3.1.5, page 3) requires that the conservation rate customer notice will include contact information for the utility including the website and TTY number. Park has agreed to provide TTY access to information (Exh. 10, page 4).

The Suburban/Joint Consumer Settlement (Section 3.1.6, page 3) requires that the conservation rate customer notices be submitted to the Commission's Public Advisor

office for review. The Park/DRA Settlement June 15, 2007 (Section 11.3, page 7) similarly states that customer notices will be submitted to the Public Advisor. As a mater of practice, regulatory notices are routinely provided by Park to the Public Advisor's office for review. The Commission's Rate Case Plan for Class A water utilities (Decision 07-05-062), requires customer notices to be submitted to the Commission's Public Advisor Office for approval prior to distribution to customers. The Suburban/Joint Consumer Settlement (Section 3.3.2, page 3) requires that material on conservation rates be posted on the utility's website. Park has agreed to make the conservation rate material available in both English and Spanish on its website (Settlement, Section 11.1, page 7).

The Suburban/ Joint Consumer Settlement (Section 3.3.3, page 4) requires the utility to include TTY information on bill inserts. Park has agreed to provide TTY access to information (Exh. 10, page 4).

The Suburban/ Joint Consumer Settlement (Section 3.3.7, page 5) commits the utility to implementing an interactive voice response ("IVR") with Spanish language capability within one year of the Commission decision for this proceeding (Phase 1A). Park's existing IVR has Spanish language capability and therefore Park is already implementing this requirement.

The Suburban/Joint Consumer Settlement (Section 3.3.8, page 5) requires the utility to provide information on conservation rates to community based organizations ("CBOs"). Park has agreed to provide CBOs with material on conservation rates (Park/DRA Settlement, June 15, 2007, Section 11.2) and plans to partner with CBOs on customer education and outreach (Exh. 10, page 3).

D. Portions of the Suburban/Joint Consumer Settlement That Park Will Not Implement

The Suburban/Joint Consumer Settlement (Section 3.1.3, page 3) requires a short summary in Spanish of the conservation notice on the bill with a number to call to request a copy of the conservation notice in Spanish. Park routinely provides all customer notices in Spanish (Settlement, Section 11.1, page 7). Because Park provides its customers with complete copies of notices in both English and Spanish

this requirement would be unnecessarily burdensome and redundant. More importantly Park's existing practice of providing all customer notices in Spanish exceeds this requirement.

The Suburban/Joint Consumer Settlement (Section 3.3.4, page 4) requires the utility to take out newspaper ads regarding conservation rates. Park has not agreed to place newspaper ads because using this media is cost prohibitive. (TR 215, 23-26). More importantly, Park does not believe that the customer benefit provided by the use newspaper advertisement is commensurate with the associated expense. The Suburban/Joint Consumer Settlement does not address how the costs of newspaper advertisement or any other education and outreach expense will be funded.

The Suburban/Joint Consumer Settlement (Section 3.3.5, page 4) requires the utility to distribute flyers throughout the Spanish-speaking communities within its service territory with information on the conservation rates. Section 3.3.6, page 5 requires the utility to setup a voice mailbox to provide messages in Spanish and allow customers to request materials in Spanish. Park has not agreed to implement these specific actions targeted at Spanish speaking customers because Park is currently serving the needs of its Spanish speaking customers (TR 210, 9-12). As referenced in the Joint Consumer's Opening Brief (page 17), Park has existing measures in place to provide outreach to its Spanish speaking customers. These measures include a toll-free number with customer service representatives who speak Spanish and providing customer notices/forms in Spanish. These measures (Sections 3.3.5 – 3.3.6, pages 4-5) are not cost effective and largely redundant because any Spanish speaking customer can communicate with Park's customer service representative in person or over the phone (Further Testimony of Edward Jackson, July 13, 2007, page 3). Park believes that direct communication with limited English proficient customers is preferable providing greater customer satisfaction and more cost effective than implementation of a Spanish language voicemail and answering machine.

The Suburban/Joint Consumer Settlement (Section 3.3.10 – 3.3.11, page 5) requires the utility to post the list of CBOs on its website and for the utility's customer service representatives to provide CBO referrals upon customer request.

While Park does not conceptually oppose these actions, Park believes that at this time the requirement is premature. Park is in the process of identifying and contacting the CBOs within its service area (Exh. 10, page 3). Park is uncomfortable with advertising on its website and providing customer referrals to organizations that it has no or limited experience with.

E. Park has Agreed to Implement Portions of the Suburban/Disabilities' Right Advocates Memorandum of Understanding Applicable to Park

The subject of the Suburban/ Disabilities' Right Advocates Memorandum of Understanding ("MOU") includes Near-Term Accessibility Improvements (Section 3), Ongoing Accessibility Improvements (Section 4) and Accessibility Improvements in conjunction with the "Cornerstone" Project (Section 5). Park has agreed to implement all of the measures listed in Sections 3 and 4. (Exh. 10, pages 3 - 4). The items listed in Sections 3 and 4 include providing large type versions of customer notices upon request and TTY access to information. Park will not provide a detailed list of the items since many of these items are largely duplicative of the Suburban/Joint Consumer Settlement Agreement. Section 5 requires the Suburban to commit to "making its best efforts" to take certain actions with respect to its "Cornerstone" Project. As described in the MOU, The Cornerstone project is still under development and will included systems improvements to Suburban's billing, data and communications systems. The Cornerstone project is clearly unique to Suburban and not applicable to Park. Park therefore cannot agree to implement any of the items addressed by Section 5 of the MOU.

F. The Commission Should Not Order a Specific Outreach Program for Park Using the Suburban/Joint Consumer Settlement and the Suburban/Disabilities Rights Advocate's MOU as a Template

For the reasons discussed above, it is unnecessary for the Commission to specify a specific customer outreach program for Park using the Suburban/Joint Consumer Settlement and the Suburban/Disability Rights Advocate MOU as a template. No principal disagreement exists between Park, the DRA and the other

ratepayer groups in this proceeding regarding customer education and outreach. The Settlement on WRAM and Conservation Rate Design Issues and Park's Testimony (Exh. 10) provides the framework for Park's customer education and outreach program and is consistent with the principals contained in the Suburban Settlement Agreement and MOU.

G. Park's Customer Education and Outreach Program Includes Outreach Efforts to Limited English Proficiency Customers

The Joint Consumers Opening Brief (page 18) states that Park has expressed concerns about implementing additional outreach methods to specifically target Spanish-speaking customers. This statement in the Joint Consumers brief mischaracterizes Park's testimony. The only concern that Park has raised in regards to outreach to limited English proficiency customers, is the use of advertisement in other media such as newspapers. (TR 214, 25-215,7) Park's concern is strictly limited to the cost effectiveness of advertising in the newspaper. Park is not convinced that the high cost of such advertising would provide commensurate benefits to its customers.

As clearly shown in the above discussion, Park makes great effort in providing outreach to its Spanish speaking customers. Park has agreed to work with consumer organizations in developing a customer education and outreach programs associated with implementing the new conservation rate design. The program will include notices in Spanish and conservation information will be made available on its website in Spanish. (Motion to Adopt Settlement, Section I, pages 13-14).

H. CFC's Recommendation to Limit Customer Notification should be Rejected

CFC proposes that Park only notify those customers whose monthly bills are likely to increase under the Settlement's proposed increasing block rates (CFC Brief, page 3). CFC's request is impractical and presupposes that a utility has knowledge of how individual customers will react to the new conservation rate design. The amount of work involved in estimating the expected individual customer usage and bill impact would result in significant additional expenses in relation to any benefit derived from that effort. For any given billing period, an individual customer may

experience a bill increase, a bill decrease or no change in bill at all. Because Tier 1 is based on a proxy for indoor water usage (Settlement, Section 4.3, page 3) an average user may expect to experience a bill decrease in the winter and a bill increase in the summer.

Even if Park had the ability to accurately estimate individual customer bills and thereby identify those customers who will not a see a bill increase under the conservation rate design, there would still be value in providing customer education and outreach to those customers. All customers, not just those with above average consumption, will benefit from education on ways to further reduce their consumption.

In addition, Park questions whether or not CFC's proposal is in accordance with the commission's Rules on customer notice. At a minimum, Park believes CFC's proposal is inappropriate.

V. BURDEN OF PROOF

All charges demanded or received by any public utility must be "just and reasonable." (Public Utilities Code (PU Code) § 451.) Existing rates are presumed to be reasonable and lawful and a utility seeking to increase those rates has "the burden of showing by clear and convincing evidence that it is entitled to such increase." (Re Pacific Gas and Electric Company (PG&E), D.00-02-046, 2000 Cal. PUC LEXIS 239, *56-57.) The standard applicable to the approval of rate increases is "clear and convincing" evidence: "Clear and convincing evidence must be clear, explicit, and unequivocal. It should be so clear as to leave no substantial doubt, or sufficiently strong to demand the unhesitating assent of every reasonable mind." (*Id*. at *54-55 (quoting Jefferson, *California Evidence Benchbook*).)

CFC, on page 33 of its Brief, claims that Park has not met its burden of proving that the conservation rates will achieve their intended purpose. The applicable standard for approving rate increases is "clear and convincing" evidence as stated above. Evidence can be clear and convincing without dotting and crossing every conceivably possible "i" and "t". The test is "no substantial doubt", not "no doubt at

all". The rates proposed in the settlement are "conservation rates" as defined by the CUWCC. Their purpose is to promote conservation and every "reasonable mind" should "unhesitatingly assent" that they will achieve that purpose. The fact that CFC can point to a small number of municipal water providers which have different types of conservation rate designs does not create substantial doubt and does not mean that Park's and DRA's evidence is not clear and convincing.

The "burden of proof" argument is typically the argument of last resort for some party other than the utility when its own positions are shown to have been based on unreasonable assumptions, flawed methodology, and/or mere opinion and cannot be supported. The premise appears to be that, if any little hole can be poked in the utility's position, the Commission must then adopt that party's position estimate by default, notwithstanding how unreasonable that position may be. The Commission must weigh the evidence presented by Park and DRA in support of the Settlement and the substance of CFC's disagreements to determine the reasonableness of the Settlement. The Commission must also consider the reasonableness of CFC's position and determine whether it will achieve the Commission's intended purpose. With regard to the issue of the conservation rates, while CFC argues that the conservation rates in the settlement will not be effective in promoting conservation, at least with the trial program rates in effect until the next GRC, there would be conservation rates in effect. Under CFC's proposal there would not be any kind of conservation rates in effect until at least the next GRC, or maybe longer depending on how long it takes to perform all the studies that CFC proposes be done, and depending on which of the several and sometimes contradictory and mutually exclusive CFC proposals would be complied with.

CFC (page 35) claims that the Commission must intervene to require that the Settlement rates be based on judgments about what will best serve the public interest. There are a number of other interveners participating in this proceeding who represent various sections of the public. None of those other interveners oppose the rate design or WRAM/MCBA proposed in the Settlement. TURN, the group with the most experience participating in CPUC proceedings, joined the revised California Water Service settlement which contains the same WRAM/MCBA and conservation rates

based on the same criteria. The City of Norwalk, acting in the interest of Park's customers, does not oppose the Settlement. The Commission should act in a way will that will best serve the public interest, but the Commission should be skeptical that the proposals put forward by CFC will accomplish that end.

CFC also claims that customers should be protected from unreasonable charges effectuated through the WRAM/MCBA. The WRAM/MCBA, operating on a combined basis, will only allow Park to recover the amount of estimated costs of operation, other than production costs, which were adopted by the Commission as reasonable in Park's GRC and which were designed to be recovered through commodity rates (Settlement, Section 7.1, page 5). CFC's reference to the recovery of costs that the Commission has found to be reasonable as "unreasonable charges" is pure "spin". Outside of some arguments made in its comments on the settlement, all of which were shown to be flawed, CFC has offered no justification for the position that it is unreasonable for customers to pay charges that are designed to recover the company's reasonable costs of operation.

VI. CONCLUSION

For the reasons discussed above, Park respectfully requests that the Commission adopt Park's position with respect to the issues discussed in this Reply Brief.

Respectfully submitted,

PARK WATER COMPANY

/s/ LEIGH K. JORDAN

LEIGH K. JORDAN,
Executive Vice President
Park Water Company
9750 Washburn Road
Downey, CA 90241
Phone: (562) 923-0711
Fax: (562) 861-5902
leigh@parkwater.com

**********CERTIFICATE OF SERVICE**********

I HEREBY CERTIFY THAT I HAVE THIS DAY SERVED A COPY OF "REPLY BRIEF OF PARK WATER COMPANY ON ISSUES IN PHASE 1A" IN I.07-01-022 BY USING THE FOLLOWING SERVICE:

[X] **E-Mail Service:** sending the entire document as an attachment to all known parties of record who provided electronic mail addresses.

[X] **U.S. Mail Service:** mailing by first-class mail with postage prepaid to all known parties of record who did not provide electronic mail addresses, if any.

Executed on September 17**, 2007** at Downey, California.

/s/ ELLEN M ZIMBALIST

Ellen M Zimbalist

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address and/or e-mail address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

* *

*********SERVICE LIST*********
I.07-01-022
Reply Brief of Park Water Company on Issues In Phase 1A filed on September 17, 2007

Appearance

CHARLIE HARAK
NATIONAL CONSUMER LAW CENTER
ATTORNEY AT LAW
BOSTON, MA 02110-1006
3000 K STREET, N.W. SUITE 300
charak@nclc.org

JEAN L. KIDDOO
77 SUMMER STREET, 10TH FLOOR
BINGHAM MCCUTCHEN LLP
WASHINGTON, DC 20007
kikiddoo@swidlaw.com

NANCI TRAN
GOLDEN STATE WATER
630 E. FOOTHILL BOULEVARD
SAN DIMAS, CA 91773-9016
nancitran@gswater.com

OLIVIA B. WEIN
3000 K STREET, NW, SUITE 300
NATIONAL CONSUMER LAW CENTER
1001 CONNECTICUT AVE., NW., STE. 510
WASHINGTON, DC 20036
owein@nclcdc.org

FRED G. YANNEY
FULBRIGHT & JAWORSKI LLP
555 SOUTH FLOWER STREET, 41ST FLOOR
LOS ANGELES, CA 90017-2571
fyanney@fulbright.com

EDWARD N. JACKSON
PARK WATER COMPANY
DIRECTOR REVENUE REQUIREMENTS
9750 WASHBURN ROAD
DOWNEY, CA 90241-7002
ed@parkwater.com

ROBERT J. DIPRIMIO
VALENCIA WATER COMPANY
24631 AVENUE ROCKEFELLER
VALENCIA, CA 91355
rdiprimio@valencia.com

ROBERT KELLY
SUBURBAN WATER SYSTEMS
1211 EAST CENTER COURT DRIVE
COVINA, CA 91724-3603
bobkelly@bobkelly.com

MICHAEL L. WHITEHEAD
SAN GABRIEL VALLEY WATER CO.
PO BOX 6010
EL MONTE, CA 91734
mlwhitehead@sgvwater.com

KEITH SWITZER
GOLDEN STATE WATER COMPANY
630 EAST FOOTHILL BLVD.
SAN DIMAS, CA 91773
kswitzer@gswater.com

RONALD MOORE
GOLDEN STATE WATER/BEAR VALLEY ELEC
630 EAST FOOTHILL BLVD.
SAN DIMAS, CA 91773
rkmoore@gswater.com

LEIGH K. JORDAN
EXECUTIVE VICE PRESIDENT
APPLE VALLEY RANCHOS/PARK WATER CO
21760 OTTAWA ROAD
APPLE VALLEY, CA 92307
leigh@parkwater.com

KENDALL H. MACVEY
ATTORNEY AT LAW
BEST, BEST & KRIEGER, LLP
PO BOX 1028
RIVERSIDE, CA 92502
kendall.macvey@bbklaw.com

CHRISTINE MAILLOUX
THE UTILITY REFORM NETWORK
711 VAN NESS AVENUE, SUITE 350
SAN FRANCISCO, CA 94102
cmailloux@turn.org

JACK HAWKS
CALIFORNIA WATER ASSOCIATION
601 VAN NESS AVE., SUITE 2047
SAN FRANCISCO, CA 94102
jhawks cwa@comcast.net

NINA SUETAKE
ATTORNEY AT LAW
THE UTILITY REFORM NETWORK
711 VAN NESS AVE., STE 350
SAN FRANCISCO, CA 94102
nsuetake@turn.org

DANIEL A. DELL'OSA
SAN GABRIEL VALLEY WATER COMPANY
11142 GARVEY AVENUE, PO BOX 6010
EL MONTE,CA 91733
dadellosa@sgvwater.com

TIMOTHY J. RYAN
ATTORNEY AT LAW
SAN GABRIEL WATER COMPANY
11142 GARVEY AVENUE
EL MONTE, CA 91733
tjryan@sgvwater.com

MARCELO POIRIER
CALIF PUBLIC UTILITIES COMMISSION
LEGAL DIVISION, ROOM 5025
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214
mpo@cpuc.ca.gov

DAVID A. EBERSHOFF
ATTORNEY AT LAW
FULBRIGHT & JAWORSKI, L.L.P.
555 SO. FLOWER STREET, 41ST FLOOR
LOS ANGELES, CA 90017
debershoff@fulbright.com

MONICA L. MCCRARY
CALIF PUBLIC UTILITIES COMMISSION
LEGAL DIVISION, ROOM 5134
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214
mlm@cpuc.ca.gov

NATALIE WALES
CALIF PUBLIC UTILITIES COMMISSION
LEGAL DIVISION, ROOM 4107
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214
ndw@cpuc.ca.gov

ENRIQUE GALLARDO
LATINO ISSUES FORUM
160 PINE STREET, SUITE 700
SAN FRANCISCO, CA 94111
enriqueg@lif.org

LENARD G. WEISS
ATTORNEY AT LAW
STEEFEL, LEVITT & WEISS, PC
ONE EMBARCADERO CENTER, 30TH FLOOR
SAN FRANCISCO, CA 94111
lweiss@steefel.com

LORI ANNE DOLQUEIST
ATTORNEY AT LAW
STEEFEL, LEVITT & WEISS
ONE EMBARCADERO CENTER, 30TH FLOOR
SAN FRANCISCO, CA 94111
ldolqueist@steefel.com

DAVID M. MARQUEZ
STEEFEL, LEVITT & WEISS
ONE EMBARCADERO CENTER, 30TH FLOOR
SAN FRANCISCO, CA 94111-3719
dmmarquez@steefel.com

B. TILDEN KIM
ATTORNEY AT LAW
RAICHARS WATSON & GERSHON
355 SOUTH GRAND AVENUE, 40TH FLOOR
LOS ANGELES, CA 90071
tkim@rwglaw.com

ALLYSON TAKETA
ATTORNEY AT LAW
FULBRIGHT & JAWORSKI, L.L.P.
550 SOUTH FLOWER STREET, 41ST FLOOR
LOS ANGELES, CA 90071
ataketa@fulbright.com

FRANCIS S. FERRARO
CALIFORNIA WATER SERVICE COMPANY
1720 NORTH FIRST STREET
SAN JOSE, CA 95112
sferraro@calwater.com

LYNNE P. MCGHEE
ATTORNEY AT LAW
CALIFORNIA WATER SERVICE COMPANY
1720 NORTH FIRST STREET
SAN JOSE, CA 95112
lmcghee@calwater.com

BETTY R. ROEDER, PRESIDENT
GREAT OAKS WATER COMPANY
15 GREAT OAKS BLVD., SUITE 100
SAN JOSE, CA 95196
broeder@greatoakswater.com

PALLE JENSEN
SAN JOSE WATER COMPANY
374 WEST SANTA CLARA ST.
SAN JOSE, CA 95119
palle jensen@sjwater.com

DAVID MORSE
CALIFORNIA WATER SERVICE COMPANY
1411 W. COVELL BOULEVARD, SUITE 106-292
DAVIS, CA 95616-5934
demorse@omsoft.com

JOSE E. GUZMAN
ATTORNEY AT LAW
NOSSAMAN, GUTHNER, KNOX & ELLIOTT, LLP
50 CALIFORNIA STREET, 34TH FLOOR
SAN FRANCISCO, CA 94111
jguzman@nossaman.com

ALEXIS K. WODTKE
STAFF ATTORNEY
CONSUMER FEDEERATION OF CALIFORNIA
520 S. EL CAMINO REAL, SUITE 340
SAN MATEO, CA 94402
lex@consumercal.org

JEFFREY NAHIGIAN
JBS ENERGY, INC.
311 D. STREET
WEST SACRAMENTO, CA 95605
jeff@jbsenergy.com

LISA BURGER
DISABILITY RIGHTS ADVOCATES
2001 CENTER STREET, 3RD FLOOR
BERKELEY, CA 94704
pucservice@dralegal.org

MELISSA W. KASNITZ
ATTORNEY AT LAW
DISABILITY RIGHTS ADVOCATES
2001 CENTER STREET,3RD FLOOR
BERKELEY, CA 94704
pucservice@dralegal.org

MARTIN A. MATTES
ATTORNEY AT LAW
NOSSAMAN, GUTHNER, KNOX & ELLIOTT, LLP
50 CALIFORNIA STREET, 34TH FLOOR
SAN FRANCISCO, CA 94111
mmattes@nossaman.com

DARLENE M. CLARK, ESQ.
CALIFORNIA AMERICAN WATER
4701 BELOIT DRIVE
SACRAMENTO, CA 95838-2434
darlene.clark@amwater.com

DAVID P. STEPHENSON
CALIFORNIA-AMERICAN WATER COMPANY
4701 BELOIT DRIVE
SACRAMENTO, CA 94838
dstephen@amwater.com

PATRICIA A. SCHMIEGE
ATTORNEY AT LOW
LAW OFFICE OF PATRICIA A. SCHMIEGE
705 MISSION AVENUE, SUITE 200
SAN RAFAEL, CA 94901
pschmiege@schmiegelaw.com

BILL MARCUS
JBS ENERGY
311 D STREET, SUITE A
WEST SACRAMENTO, CA 95605
bill@jbsenergy.com

MARCEL HAWIGER
ATTORNEY AT LAW
THE UTILITY REFORM NETWORK
711 VAN NESS AVENUE, SUITE 350
SAN FRANCISCO, CA 94102
marcel@turn.org

Information Only

JOHN GREIVE
LIGHTYEAR NETWORK SOLUTIONS, LLC
1901 EASTPOINT PARKWAY
LOUISVILLE, KY 40223
john.greive@lightyear.net

MARY CEGELSKI
FIRST COMMUNICATIONS, LLC
15166 NEO PARKWAY
GARFIELD HEIGHTS, OH 44128
mcegelski@firstcomm.com

CHARLES FORST
360 NETWORKS (USA) INC.
867 COAL CREEK CIRCLE/SUITE 160
LOUISVILLE, KY 40223
charles.forst@360.net

DEBBIE DAVIS
LEGISLATIVE ANALYST
ENVIRONMENTAL JUSTICE COALITION FOR WATER
654 13TH STREET
PRESERVATION PARK, CA 94612
debbie@ejcw.org

TIMOTHY S. GUSTER
GENERAL COUNSEL
GREAT OAKS WATER COMPANY
P.O. BOX 23490
SAN JOSE, CA 95153
tguster@greatoakswater.com

ADRIAN HANSON
1231 FORRESTVILLE AVENUE
SAN JOSE, CA 95510

DONALD R. WARD
ATTORNEY AT LAW
4689 MARLENE DRIVE
SANTA MARIA, CA 93455
luhintz2@verizon.net

DOUGLAS K. MARTINET
PARK WATER COMPANY INC.
P.O. BOX 7002
DOWNEY, CA 90241
dougm@parkwater.com

REGINA DEANGELIS
CALIFORNIA PUBLIC UTILITIES COMMISSION
DIVISION OF ADMINISTRATIVE LAW JUDGES ROOM 5022
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214
rmd@cpuc.ca.gov

MATT VANDER SLUIS
PLANNING AND CONSERVATION LEAGUE
1107 9TH STREET, SUITE 360
SACRAMENTO, CA 95814
mvander@pcl.org

DANIELLE C. BURT
BINGHAM MCCUTCHEN LLP
3000 K STREET, NW
SUITE 300
WASHINGTON, D.C. 20007-5116
danielll.burt@bingham.com

CHRIS BROWN
EXECUTIVE DIRECTOR
CALIFORNIA URBAN WATER CONSERVATION
455 CAPITOL MALL, SUITE 703
SACRAMENTO, CA 95814
chris@cuwcc.org

KATIE SHULTE JOUNG
CALIFORNIA URBAN WATER CONSERVATION
455 CAPITOL MALL, SUITE 703
SACRAMENTO, CA 95814
katie@cuwcc.org

State Service

JOYCE STEINGASS
CALIF PUBLIC UTILITIES COMMISSION
WATER BRANCH, ROOM 4102
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214
jws@cpuc.ca.gov

KENNETH BRUNO
CALIF PUBLIC UTILITIES COMMISSION
UTILITY AUDIT, FINANCE & COMPLIANCE BRAN
505 VAN NESS AVENUE, ROOM 3-C
SAN FRANCISCO, CA 94102-3214
kab@cpuc.ca.gov

BERTRAM D. PATRICK
CALIF PUBLIC UTILITIES COMMISSION
DIVISION OF ADMINISTRATIVE LAW JUDGES
505 VAN NESS AVENUE, ROOM 5110
SAN FRANCISCO, CA 94102-3214
bdp@cpuc.ca.gov

FRED L. CURRY
CALIF PUBLIC UTILITIES COMMISSION
WATER ADVISORY BRANCH
505 VAN NESS AVENUE, ROOM 3106
SAN FRANCISCO, CA 94102-3214
flc@cpuc.ca.gov

JAEYEON PARK
CALIF PUBLIC UTILITIES COMMISSION
WATER BRANCH
ROOM 4102
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214
jcp@cpuc.ca.gov

LAURA L. KRANNAWITTER
CALIF PUBLIC UTILITIES COMMISSION
EXECUTIVE DIVISION
ROOM 5303
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214
llk@cpuc.ca.gov

DIANA BROOKS
CALIFORNIA PUBLIC UTILITIES COMMISSION
WATER BRANCH
ROOM 4102
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214
dsb@cpuc.ca.gov

EDWARD HOWARD
CALIFORNIA PUBLIC UTILITIES COMMISSION
DIVISION OF STRATEGIC PLANNING
ROOM 5119
505 VAN NESS AVENUE
SAND FRANCISCO, CA 94102-3214
trh@cpuc.ca.gov

PATRICK HOGLUND
CALIF PUBLIC UTLITIES COMMISSION
WATER BRANCH, ROOM 3200
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94103-3214
phh@cpuc.ca.gov

SEAN WILSON
CALIF PUBLIC UTILITIES COMMISSION
UTILITY AUDIT, FINANCE & COMPLIANCE BRAN
505 VAN NESS AVENUE, AREA 3-C
SAN FRANCISCO, CA 94102-3214
smw@cpuc.ca.gov

TATIANA OLEA
CALIF PUBLIC UTILITIES COMMISSION
WATER BRANCH, ROOM 4102
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214
tfp@cpuc.ca.gov

JANICE L. GRAU
CALIF PUBLIC UTILITIES COMMISSION
DIVISION OF ADMINISTRATIVE LAW JUDGES
505 VAN NESS AVENUE, ROOM 5011
SAN FRANCISCO, CA 94102-3214
jlg@cpuclca.gov